

**United States Bankruptcy Court  
Northern District of Florida**

**Noticing Project Details and Frequently Asked Questions**

**Effective January 1, 2015**, the Court instituted a policy requiring attorneys and Trustees to serve orders and hearing notices. This practice is consistent with other federal and state courts. For example, attorneys in the Middle District of Florida have been successfully serving their own orders since June of 2013 and their own hearing notices since June of 2014.

The information below details the general procedure. Please review the court's [Frequently Asked Questions \(FAQs\)](#) located at the bottom of this document for information regarding specific scenarios and answers to questions that have been posed by members of the Bar upon the initial announcement of this policy. Note that this document will be updated periodically with new or revised information. The latest changes will appear as yellow highlighted text.

**The process for noticing hearings** will be fairly simple. The courtroom deputy will notify the attorney by docket entry of the hearing's date and time. The attorney will have three business days from the date of the docket entry to prepare and serve a notice of hearing and file a certificate of service, which will note the list of parties being served. If the hearing is not noticed within three business days, the Clerk's office will send a reminder. The attorney then has an additional three business days to notice the hearing, but if not noticed within that time frame, the motion will be denied without prejudice for failure to comply with noticing instructions. For the hearing to be reset, the moving party must file a renewed motion.

**The process for serving orders** will also be simple. Proposed orders will be required to include one of these service statements:

- 1) For an Attorney: "Attorney [Name of submitting attorney] is directed to serve a copy of this order on interested parties and file a certificate of service within 3 business days of entry of the order"
- 2) For a Trustee: "Trustee [Name of submitting trustee] is directed to serve a copy of this order on interested parties and file a certificate of service within 3 business days of entry of the order"

The statement should be located after the signature block with two hard returns preceding it. Proposed orders that do not include this statement will be rejected and the submitting party will be required to submit a new order with the appropriate language included. Failure to serve an order within the time allotted may result in the order being vacated.

**The Order and Notice of Continued Hearing on Confirmation and Fixing Time to File Objections** in Chapter 13 cases is one exception to the above requirements. This order is to be served in accordance with applicable Rules.

This initiative is necessary in light of the Court's reduced resources and in anticipation of further reduced funding. With the cooperation of attorneys, Trustees and their staff we expect this initiative to be very successful. Although the cost of noticing is being passed along to the parties, the savings to the Court is crucial with the current budget constraints. Bankruptcy courts around the country have already suffered from serious reductions in Clerk's Office staff. The judiciary as a whole has lost 550 positions since the start of 2014 and 3300 positions within the past three years. As a result, today's staffing levels in the bankruptcy court are equal to our benchmark in 1988, although we are maintaining a caseload that is 20% higher than the 1988 levels. We estimate that implementation of this Noticing Project will save our Court between \$35,000 and \$40,000 annually. This savings will assist our Court with retaining our current (minimal) staff and continuing to provide excellent assistance.

At present, the pleadings the Court intends to continue noticing through the Bankruptcy Noticing Center (BNC) are listed below. Note that this list is subject to change. We will notify you of any changes through the amendment of this document combined with an announcement on our Website, in *The Bankruptcy Advisor* newsletter, and/or by email:

- a) Chapter 13 Duties of the Debtor Orders
- b) Judgment
- c) Memorandum Opinion
- d) Notice of Case Number Change
- e) Notice of Claim Filed by Debtor or Trustee
- f) Notice of Commencement of Case, 341(a) Meeting of Creditors and Deadlines
- g) Notice of Need to File Proof of Claim
- h) Notice of Transfer of Claim
- i) Order Denying Motion for Relief from Stay as Moot

- j) Order on Motion for Final Judgment
- k) Orders Discharging Debtors
- l) Orders Entered on the Court's Motion/*Sua Sponte*
- m) Orders Regarding Filing Fees (IFP or Installments)
- n) Orders Scheduling Pretrial Hearings and Trials
- o) Orders to Show Cause
- p) Preliminary Hearing Order on Motions for Relief from Stay

Pursuant to 11 U.S.C. § 101(42), the Clerk's Office will continue to provide noticing services to the U.S. Trustee's Office. The Clerk's Office will also continue to serve court documents (notices and orders) in cases in which a *Notice of Pro Bono Representation of Debtor(s)* has been filed.

Information concerning the preparation of Certificate of Service statements and stand-alone Certificate of Service documents is available on the Forms page of the Court's website through the link labeled "Certificate of Service – Instructions and Sample" located at <http://www.flnb.uscourts.gov/sites/default/files/forms/5-inst.docx>.

## FREQUENTLY ASKED QUESTIONS

### **1. How can I easily research the following FAQs to find those that apply to my situation?** [Added on 1/8/2015]

Adobe Acrobat, Adobe Reader and other similar programs designed to read PDF files contain a feature that allows users to search a document for keywords. In Adobe Acrobat, the search feature can be accessed by pressing and holding the Control key and then the 'f' key on your keyboard. A box will appear at the top of the screen. Type in your keyword(s) and then click the left or right arrow to move up or down through this document to the locations where your keyword(s) appears.

### **2. Will CM/ECF continue to provide a copy of orders and notices to people who receive electronic service?**

Yes, electronic service will continue to **attorneys** who are registered users of our CM/ECF system and who are parties to or have filed a notice of appearance in the case. Please be aware that **creditors** do not receive Notices of Electronic Filing from CM/ECF except on documents they file. You may refer to service by the court by electronic means in your Certificate of Service using the language in II.B. of the [Administrative Procedures](#) for electronic filing, a copy of which may be found on our website attached to Standing Order #11 Relating to Electronic Case Filing. Only properly formatted Certificates of Service will be accepted.

**3. For the purpose of preparing an accurate and properly formatted Certificate of Service, is there a mechanism in CM/ECF that allows a user to determine which parties received an electronic notice of a filing?** [Added on 1/8/2015]

A Notice of Electronic Filing (NEF) is produced by CM/ECF for each filing in a case. It contains information about the filing as well as a list of individuals who received notice either electronically or by mail.

The NEF can be viewed in one of two ways:

- By setting your CM/ECF user account to send you *individual* NEF emails for each filing in your case(s) which will display the information you need (see [FAQ #17](#) for detailed instructions); and/or
- By logging in to CM/ECF with your *court-provided* login and password, running a Docket Report with the “Links to Notices of Electronic Filing” option checked, and clicking on the silver ball to view the NEF for the desired entry. Note that PACER fees will apply.

**Important Note:** The NEF does not take the place of a Certificate of Service. A proper Certificate of Service must be filed in accordance with the Rules and this court’s administrative procedures. The NEF *can* provide you with information to help you complete your Certificate of Service. [Click here](#) for more information about certificates of service.

**4. Why can't I see the Notice of Electronic Filing (NEF) silver ball icons on my docket report?** [Added on 1/8/2015]

If you are not logged in to CM/ECF using your *court-provided* login and password (as opposed to your PACER login and password), then you will not see the silver ball icons on any Docket Report. If you are already logged in using your court login and password, then click the "Back" button on your browser and check the box labeled "Links to Notices of Electronic Filing" before resubmitting the Docket Report request.

**5. Why do I have to change my CM/ECF user account settings to cause individual Notice of Electronic Filing (NEF) emails to be sent in order to view NEFs without going through the steps needed to view a Docket report? Can't I view them using my summary NEF email?** [Added on 1/8/2015]

Our research has shown that the silver ball NEF icon only appears on a Docket Report if the user has logged in to CM/ECF using their *court-provided* login and password. If you access a case through your summary NEF email, only the PACER login/password is requested via an automatic prompt, thus restricting your access to the silver balls.

**6. How can I determine who will receive electronic notification of something that has yet to be filed (e.g., you are creating and docketing a notice of hearing or creating a Certificate of Service on a motion/application to be filed)?** [Added on 1/8/2015]

This information can be found in CM/ECF under *Electronic & Manual Service Lists*, available in the Bankruptcy menu under the "Mailing Information" header.

**IMPORTANT NOTE:** You *cannot* use this list to create a certificate of service for something that has *already* been docketed and served electronically because the people on this list change as electronic case participants are added, removed, or modified. As a result, your Certificate of Service may not be accurate. Instead, view the Notice of Electronic Filing (NEF) receipt for the previously docketed item to develop an accurate Certificate of Service for that filing.

**7. Can we serve orders and notices by email rather than first class mail if we know the person's email address?**

Section II.B.3. of the [Administrative Procedures](#) states that electronic service is only permissible "if and only if the recipient of the notice or service is either a registered participant in the System and/or has agreed in writing with the filer to accept such service in lieu of service by first class mail." If the recipient is a registered user of our CM/ECF system, and is a party to/represents a party in the case they would have already received notification from the court at the time of docketing.

**8. Will the court continue to send the "Notice of Assets" from the Chapter 7 Trustees?**

No. The trustees will be responsible for serving all documents not noted on the [list of items](#) that the court will serve.

**9. Does this new process mean that I need to change the format of my Certificate of Service?** [Added on 1/12/2015]

No. The change in the court's noticing policy only impacts the *types* of documents you are now required to serve. It does not constitute a change in the way you have always been required to complete your Certificates of Service. In addition, the policy change did not result in a change to the Certificate of Service format.

Certificates of Service must continue to indicate that the proper parties were served per the Rules, who each of those parties were, and what method you used to serve each party (including the party's email address or mailing address).

See [FAQ #6](#) to determine who will receive electronic notice of a filing *that has yet to be filed*.

See [FAQ #3](#) to determine who received electronic service of a document that *has already been filed* in CM/ECF.

See “[Certificate of Service – Instructions & Sample](#)” for more information on how to prepare a Certificate of Service.

**10. How do I modify my CM/ECF user account to start receiving individual Notices of Electronic Filing (NEFs) instead of Daily Summary emails?** [Added on 1/13/2015]

See the [CM/ECF FAQs](#) for assistance with this topic.

**11. Can anyone contract with the Bankruptcy Noticing Center (BNC) to assist with service requirements?** [Added on 1/13/2015]

No. See Section II(B) of the court’s *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means* approved by and attached to [Standing Order No. 11](#).

**12. Is service of a Notice of Hearing required if a matter is *continued* to a date certain in open court?** [Added on 1/13/2015]

No.

**13. Why do the names and email addresses of electronic CM/ECF case participants need to be reiterated on the Certificate of Service when this information is already part of the court record in the form of Notice of Electronic Filing (NEF) “silver ball” documentation?** [Added on 1/13/2015]

The Florida Northern Bankruptcy Local Rules as well as the court’s Administrative Procedures (See [Standing Order No. 11](#)) require complete Certificates of Service to be a part of the court record.

Only electronic users with court-issued CM/ECF logins and passwords have access to the silver ball representing the NEF produced by CM/ECF for each filing. Similarly, court-issued user accounts are required in order to receive individual NEFs sent via email. Users who only qualify for PACER accounts

*cannot* access this information. Therefore, the Certificate of Service that has been made part of the public record is their *only source* of information concerning service.

**14. How can I file an accurate and truthful Certificate of Service indicating that I have served a document when the Notice of Electronic Filing (NEF) is not generated until after the document has been electronically filed?** [Added on 1/13/2015]

In CM/ECF, document submission and service transmission happen *at exactly the same time*. Therefore, it remains proper to electronically file a document that indicates within the Certificate of Service that certain parties have been served electronically.

**15. How do Filing Agents access the “silver ball” representing the Notice of Electronic Filing (NEF) information on the docket sheet?** [Added on 1/15/2015]

When using their court-provided CM/ECF login and password, Filing Agents have access to NEFs through the silver ball icons located on the docket sheet. See [FAQ #3](#) for details, and note that all registered users will be prompted for their PACER login and password (if not logged in to PACER already) any time a feature is accessed that requires the payment of a fee.

**16. What happens if a filer does not serve an order or notice within the required three-day period?** [Added on 1/15/2015]

Per the Noticing Project procedures, CM/ECF will send a service reminder to you after the three-day period has expired which provides you with an additional three-day period of time for service.

If a Notice of Hearing has not been served after the second three-day period has expired, the motion will be denied without prejudice for failure to comply with noticing instructions. For the hearing to be reset, the moving party must file a renewed motion. If an order has not been served upon the expiration of the extended deadline, then the order may be vacated.



**17.How should I modify my Certificate of Service if I am instructed to serve a Notice or Order but learn that it was already served on certain parties by the Court through the Bankruptcy Noticing Center (BNC)?** [Added on 1/23/2015]

If the calendar clerk directs a Notice or Order to the BNC, the BNC will continue to serve the document. Should this occur, you may file your Certificate of Service and attach the BNC notice if such a notice is available. Otherwise, if a BNC Notice is not available, you will need to reiterate on the Certificate of Service the names and contact information for the parties who were served.

**Important Note:** You remain responsible for ensuring that you submit a complete and correct Certificate of Service and that all parties requiring service per the Rules have been served.

**18.How do I inform the record if I learn through my receipt of returned mail that service of a document was not completed?** [Added on 1/27/2015]

A paperless CM/ECF event called “Notice of Receipt of Returned Mail” has been created for you to document this information.

**19.Who is responsible for serving...?**

Who is responsible for serving...	Service Responsibility
A Notice of Hearing if a motion is filed on negative notice and an objection is filed?	The movant is responsible for service of any Notice of Hearing.
An order resulting from a motion heard in court where the opposing party prevailed?	The judge will note in the courtroom who is to submit a proposed order. The party responsible for submitting the proposed order is also responsible for service.
An order Directing Strict Compliance?	If the order is on the trustee’s Motion to Dismiss, then the trustee is

	responsible for service. The court will serve the order if entered on its own motion.
An Order Confirming Plan?	The debtor or debtor's attorney is responsible for service. In the case of Chapter 11s, the order would be served by the debtor, debtor's attorney, or the proponent of the plan.
An Order Denying a Motion for Relief from Stay?	The court.
Orders Approving Plan Modifications?	These orders are to be served on all creditors and parties in interest by the debtor, debtor's attorney, or the proponent of the plan modification.
Orders Granting or Denying Motion to Proceed <i>in forma pauperis</i> or Applications to Pay in Installments?	The court.
A Notice of hearing if two or more matters are to be heard during the same hearing date/time but were noticed in CM/ECF via <i>separate</i> Notice of Hearing documents?	Each filer of the matters being heard is responsible for serving his/her respective Notice of Hearing document.
A <i>single</i> Notice of Hearing that addresses multiple matters filed by different parties?	The filer responsible for the matter <i>with the lowest docket entry number</i> is responsible for serving the Notice of Hearing. The lowest docket entry number can be determined by looking at the docket text for the Notice of Hearing or by looking at the PDF of the Notice of Hearing.

An amended Notice of Hearing issued before the hearing has commenced due to a change in the Court's schedule?	The court.
A Notice of Hearing if a matter is set for hearing in open court?	A Proceeding Memorandum will be docketed by the Courtroom Deputy and will specify the party responsible for service.